

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

LARRY E. PETERSEN

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No. 3:07-CR-337-L

MEMORANDUM OPINION AND ORDER

Before the court is the Opposed Motion to Apply Funds Held by the Midlothian Police Department to Criminal Debt, filed September 1, 2010. Defendant Larry Petersen (“Defendant”) opposes the motion. He did not file a response to the government’s motion; according to the certificate of conference, his counsel could not represent him on this issue because of the proposed use of the funds and did not advise him on it.

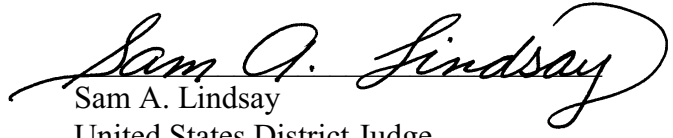
The government requests an order from the court directing the Midlothian Police Department, which has in its custody \$5800 seized from Defendant during his October 2007 arrest, to release and pay those funds to the Dallas County District Clerk, for fines and court costs in four other criminal cases, and the Federal Public Defender, for costs incurred by his court-appointed attorney. The government cites generally the All Writs Act, 28 U.S.C. § 1651, as the basis for its request.

The court questions whether it has the authority to grant the requested relief. No forfeiture proceedings have been instituted with respect to these funds. The All Writs Act is to be construed narrowly and applied “only under such extraordinary circumstances . . . that indisputably *demand* such a course of action as absolutely necessary to vouchsafe the central integrity of the federal court judgment.” *Singh v. Duane Morris LLP*, 538 F.3d 334, 341 (5th Cir. 2008) (original ellipsis and

emphasis). The government has not cited any case authority to support its request under the All Writs Act.

Accordingly, the court needs additional briefing on this motion. It **directs** the government to file a supplemental brief, including specific case authority, to support its request pursuant to the All Writs Act. The government shall file its supplemental brief no later than **October 4, 2010**.

It is so ordered this 24th day of September, 2010.


Sam A. Lindsay
United States District Judge